Calendar No. 889

98TH CONGRESS
2d Session

SENATE

REPORT
98–456

NATURAL GAS PIPELINE SAFETY ACT AUTHORIZATION

MAY 17 (legislative day, MAY 14), 1984.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2688]

The Committee on Commerce, Science, and Transportation, having considered an original bill (S. 2688) to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1985 and 1986, and for other purposes, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF BILL

It is the purpose of this bill to authorize $7,200,000 and $7,668,000 for fiscal years 1985 and 1986, respectively, to carry out the Natural Gas Pipeline Safety Act of 1968, and to authorize $1,400,000 and $1,543,000 for fiscal years 1985 and 1986, respectively, to carry out the Hazardous Liquid Pipeline Safety Act of 1979.

BACKGROUND AND NEEDS

The Department of Transportation [DOT] is responsible for carrying out the provisions of the Natural Gas Pipeline Safety Act of 1968 [NGPSA] and the Hazardous Liquid Pipeline Safety Act of 1979 [HLPSA]. DOT's pipeline safety program is administered by the Materials Transportation Bureau [MTB] of the Research and Special Programs Administration [RSPA]. Under the NGPSA and the HLPSA, DOT is responsible for developing and enforcing regulations for the safe transportation by pipeline of natural gas and other hazardous liquids, such as gasoline and fuel oil. It also is responsible for doing pipeline safety research, and for managing the State pipeline grant-in-aid programs.

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DOT is assisted in its natural gas pipeline safety responsibilities by the 47 States and the District of Columbia which participate in the grant-in-aid program provided for by the NGPSA. Under this program, States that adopt DOT safety regulations governing intrastate natural gas pipelines are authorized to enforce the regulations. The States also may exercise DOT's inspection authority on interstate natural gas pipelines. The NGPSA provides that States participating in the grant-in-aid program may be reimbursed by DOT for up to 50 percent of their costs. Currently, DOT is reimbursing these States for approximately 30 percent of their costs.

The HLPSA also provides for a grant-in-aid program pursuant to which participating States may enforce any DOT safety regulations dealing with intrastate hazardous liquid pipelines. However, DOT has not yet issued rules on intrastate hazardous liquid pipelines. According to DOT, it has delayed implementing such rules in order to allow States to enact enabling legislation and to develop the other enforcement tools required to administer State safety programs. To date, 16 States have passed enabling legislation, and 6 others are seeking to do so. In view of this, DOT has issued a notice of proposed rulemaking to extend its existing hazardous liquid pipeline regulations to intrastate pipelines. DOT expects to issue its rule by the end of the calendar year.

In addition to receiving assistance from the States, DOT is aided by two technical pipeline safety advisory committees, which are mandated by the NGPSA and the HLPSA. These committees are composed of respresentatives of industry, government, and the public. They meet on the average once a year to evaluate proposed pipeline safety standards and to report to DOT on the standards' technical feasibility, reasonableness, and practicability.

This year, the committee held a hearing to consider appropriate funding levels for fiscal years 1985 and 1986 to support DOT's pipeline safety program. In doing so, the committee examined the effectiveness of the current program, and a variety of related issues. In reviewing the issues related to DOT's implementation of the NGPSA, the committee considered the possible effect of DOT's proposals to reduce funding for the Federal training program for State pipeline inspectors, and to continue funding for the natural gas pipeline grant-in-aid program at the same levels as in fiscal years 1983 and 1984. On the hazardous liquid pipeline grant-in-aid program, the committee examined the question of whether States would be likely to start participating in the program if no Federal funding were provided. The committee also considered whether the pipeline safety advisory committees are being underutilized and lack sufficient direction from DOT.

Legislative History

On April 24, 1984, the Surface Transportation Subcommittee held a hearing to examine the pipeline safety program and specifically to consider the appropriate levels for both the Federal natural gas and hazardous liquid pipeline safety programs and the State natural gas and hazardous liquid pipeline safety enforcement grant-in-aid pro-

grams. The subcommittee heard testimony from the Administrator of RSPA within DOT and representatives of the National Association of Regulatory Utility Commissioners and the oil and gas pipeline industries.

On May 2, 1984, the full committee in open executive session considered an original bill providing authorizations for DOT's program and the State grant-in-aid programs. The committee by voice vote unanimously ordered the bill favorably reported.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 15, 1984.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for a bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1985 and 1986, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Rudolph G. Penner.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.
2. Bill title: A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1985 and 1986, and for other purposes.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, May 9, 1984.
4. Bill purpose: The bill authorizes total appropriations of $7.2 million for fiscal year 1985 and $7.7 million for fiscal year 1986 for administration and grants-in-aid activities conducted under the Natural Gas Pipeline Safety Act of 1968. It also authorizes $1.4 million for fiscal year 1985 and $1.5 million for fiscal year 1986 for activities conducted under the Hazardous Liquid Pipeline Safety Act of 1979, including administration and grants-in-aid to states. The bill changes from June 15 to April 15 the date by which the Secretary of Transportation must submit a report to the President on the administration of each of these acts.

5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1985	$8.6
1986	9.2
1987	----
1988	----
1989	----
Estimated outlays:	
Fiscal year:	
1985	5.6
1986	9.0
1987	3.2
1988	----
1989	----

The costs of this bill fall within budget function 400.

Basis of estimate: For the purpose of this estimate, it is assumed that the full amounts authorized will be appropriated prior to the beginning of each fiscal year. The authorization levels are those specified in the bill. Estimated outlays are based on recent historical spending patterns of the Hazardous Materials Transportation Bureau of the Department of Transportation, which administers the above programs.

6. Estimated cost to State and local governments: This bill authorizes State grants of $3.7 million in 1985 and $4 million in 1986 for the natural gas pipeline safety program. It also authorizes $0.5 million in 1985 and $0.6 million in 1986 for grants to States for the hazardous liquid pipeline safety program. These grants may be used to cover up to 50 percent of State program costs.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1984, CBO prepared a cost estimate for H.R. 5313, as ordered reported by the House Committee on Energy and Commerce, May 8, 1984. That bill does not include funding for grants-in-aid to States under the Hazardous Liquid Pipeline Safety Act of 1979, but authorizes funding for surveying pipeline facilities. The estimated costs reflect these differences.

9. Estimate prepared by: Kathleen Kelly.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee reports that the legislation will have no significant regulatory impact. With respect to economic impact, the funding levels in the bill are modest and will not have a major impact on the Nation's economy. The authorization levels for the Federal natural gas and hazardous liquid pipeline programs and the State natural gas grant-in-aid program are intended to continue the current safety efforts. Thus, in this regard the bill will not result in an increase in the number of persons regulated or the cost of regulation to any person, nor adversely affect the privacy of any person or change existing paperwork requirements. The bill also authorizes funds for the State hazardous liquid grant-in-aid program, which if appropriated would provide the first funding for this program. However, there would still be no major regulatory impact, as this program

would be strengthening existing enforcement of an existing regulatory program. Finally, the legislation provides that the annual pipeline safety reports from DOT need not be transmitted to the President prior to submission to Congress, thus reducing paperwork.

Section-by-Section Analysis

SECTION 1

This section provides an authorization for appropriations to cover the natural gas pipeline safety program. Specifically, subsection (a) authorizes $3,472,000 for fiscal year 1985 and $3,698,000 for fiscal year 1986 for the Federal program. Subsection (b) authorizes $3,728,000 for fiscal year 1985 and $3,970,000 for fiscal year 1986 for the State grant-in-aid program.

The fiscal year 1985 authorization for the Federal program is $72,000 more than the administration's request, and the fiscal year 1986 figure represents a 6.5-percent increase over the fiscal year 1985 amount to cover inflation. The increase of $72,000 for fiscal year 1985 represents part of the cost to the Federal Government of training State safety inspectors at the Transportation Safety Institute in Oklahoma. The committee believes that the cost of training State inspectors should continue to be covered by the Federal Government.

In this regard, the committee understands that DOT is attempting to transfer the costs of transportation research, development, and technical assistance efforts to the non-Federal arena where possible. While the committee agrees that under certain such circumstances Federal costs should be minimized if non-Federal funds are available and adequate to do what is necessary, the committee strongly believes that the Federal Government continues to have primary responsibilities in transportation safety. One such responsibility is that of training for enforcement of the Federal law. Thus, the committee is authorizing Federal funds for Federal training of State pipeline inspectors, who participate in the State enforcement grant-in-aid programs—funding which the State representatives supported in testimony before the committee. Given the importance of the State enforcement program, the need for high-quality training of State inspectors to insure strengthened and more consistent enforcement of Federal pipeline safety laws, and limited State funds, the committee believes that this funding is appropriate.

The State grant-in-aid program provides that the Federal Government can cover up to 50 percent of the costs incurred by a State which agrees to establish a program to enforce the Federal pipeline safety laws. This program was established to strengthen enforcement, and the committee believes that the program continues to be an integral part of the pipeline safety enforcement efforts. Thus the reported legislation authorizes an amount which represents a 6.5 percent increase for inflation over the amount of $3.5 million appropriated for fiscal year 1984. The amount authorized is higher than the administration's request in order to insure at least the current level of participation by the States at the current 30-percent average cost coverage by the Federal Government.

The committee notes the request of the National Association of Regulatory Utility Commissioners [NARUC] on behalf of the States to increase the funding of the State program to insure that the full 50 percent Federal funding level allowable under the law can be provided. While the committee is not approving that level of increase at this time, it is providing funds to insure the current level of State participation, which the committee strongly supports and feels certain will be maintained with the reported authorization. The committee will continue to review the funding needs of this important program.

SECTION 2

This section provides an authorization for appropriations for the hazardous liquid pipeline safety program. Specifically, subsection (a) authorizes $900,000 for fiscal year 1985 and $958,000 for fiscal year 1986 for the Federal program. Subsection (b) authorizes $500,000 for fiscal year 1985 and $585,000 for fiscal year 1986 for the State grant-in-aid program.

The committee is recommending a fiscal year 1985 level of funding for the Federal hazardous liquid pipeline program equal to that requested by the administration, and a fiscal year 1986 figure which represents a 6.5 percent increase over the fiscal year 1985 amount to cover inflation. The committee believes that these authorization levels are adequate to continue the current level of DOT operations in this area.

With respect to the hazardous liquid grant-in-aid program, the administration did not request any funding for fiscal year 1985. However, the committee believes that this program should be funded. Since the establishment of this program in the Hazardous Liquid Pipeline Safety Act of 1979, no funds have been appropriated, as it was felt that not enough States had made the necessary legislative and financial commitments. However, 16 States are now ready to participate in the program if funds are made available, and 6 other States are in the process of taking the necessary action. Given the interest that the States have shown, the committee agrees with NARUC and the States that funds should be made available for this program to insure that the intent of the 1979 legislation is carried out. As with the natural gas pipeline safety grant-in-aid program, the committee believes that the State hazardous liquid pipeline program will provide an important supplement to the existing Federal enforcement program at lower cost to the Federal Government, and will promote a more uniform pipeline safety program.

The committee is concerned that DOT is not making sufficient use of the two pipeline safety advisory committees, which have been mandated by law. Accordingly, the committee recommends that DOT consider expanding the scope of the committees' responsibilities to more appropriately take advantage of the members' experience and technical expertise in the field of pipeline transportation. Further, DOT should direct the committees to provide more general program guidance and consultation. This should take the form of identifying problems and issues of concern to the pipeline transportation industry and to State and local government regulatory officials; evaluating possible approaches and solutions; and communicating to DOT broad-based, non-Federal recommendations.

SECTION 3

This section makes two minor changes in the existing pipeline safety laws with respect to the annual pipeline reports that DOT provides Congress. First, the section amends both the Natural Gas Pipeline Safety and the Hazardous Liquid Pipeline Safety Acts to eliminate the unnecessary requirement that those annual DOT reports be sent to the President for final transmittal to Congress. Under the bill, the reports would be sent directly from DOT to Congress. Second, this section changes the date for submission of these reports from June 15 to April 15 of each year to insure that the committee has available the reports for use in its deliberations on the pipeline safety programs and their funding.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Natural Gas Pipeline Safety Act of 1968

SECTION 16 OF THAT ACT

Sec. 16. (a) The Secretary shall prepare and submit [to the President for transmittal] to the Congress on [June 15] *April 15* of each year a comprehensive report on the administration of this Act for the preceding calendar year. Such report shall include—

(1)–(11) * * *

(b) * * *

SECTION 17 OF THAT ACT

Sec. 17. (a) For the purpose of carrying out the provisions of this Act (other than provisions for which funds are authorized to be appropriated under subsection (b)), there are authorized to be appropriated—

(1) $6,200,000, for the fiscal year ending September 30, 1980; [and]

(2) $6,900,000, for the fiscal year ending September 30, 1981 [.];

(3) $3,472,000, for the fiscal year ending September 30, 1985; and

(4) $3,698,000, for the fiscal year ending September 30, 1986.

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act, there are authorized to be appropriated—

(1) $4,500,000, for the fiscal year ending September 30, 1980; [and]

(2) $5,500,000, for the fiscal year ending September 30, 1981 [.];

(3) $3,728,000, for the fiscal year ending September 30, 1985; and

(4) $3,970,000, for the fiscal year ending September 30, 1986.

THE HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979

SECTION 213 OF THAT ACT

SEC. 213. (a) The Secretary shall prepare and submit [to the President for transmittal] to the Congress on [June 15] *April 15* of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include—

(1)-(11) * * *

(b)-(3) * * *

SECTION 214 OF THAT ACT

SEC. 214. (a) For the purpose of carrying out the provisions of this title (other than provisions for which funds are authorized to be appropriated under subsection (b)), there are authorized to be appropriated—

(1) $1,800,000, for fiscal year ending September 30, 1980; [and]

(2) $2,100,000, for fiscal year ending September 30, 1981[.];

(3) $900,000, for the fiscal year ending September 30, 1985; and

(4) $958,500, for fiscal year ending September 30, 1986.

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 205 of this title, there are authorized to be appropriated—

(1) $500,000, for the fiscal year ending September 30, 1980; [and]

(2) $535,000, for the fiscal year ending September 30, 1981[.];

(3) $500,000, for the fiscal year ending September 30, 1985; and

(4) $585,000, for the fiscal year ending September 30, 1986.

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Calendar No. 890

98TH CONGRESS
2d Session

SENATE

REPORT
98-457

RAILROAD AUTHORIZATION ACT

MAY 17 (legislative day MAY 14) 1984.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2537]

The Committee on Commerce, Science, and Transportation, having considered an original bill (S. 2537) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF THE BILL

It is the purpose of this legislation to authorize $26,691,000 and $28,426,000 for fiscal years 1985 and 1986, respectively, to cover the rail safety activities of the Federal Railroad Administration (FRA) within the Department of Transportation (DOT). The legislation also authorizes $3,100,000 and $3,300,000 for fiscal years 1985 and 1986, respectively, for the rail safety State participation program, and makes certain other amendments to the rail safety laws.

It is also the purpose of this legislation to authorize $716,400,000 and $720 million for fiscal years 1984 and 1985, respectively, for the National Rail Passenger Corporation (Amtrak) to continue operation of the existing national rail passenger system. In addition, it makes certain other amendments to the Rail Passenger Service Act to ensure continued cost and service efficiences in, and a control of Federal subsidies to, the Amtrak system.

Finally, the legislation extends the authorization through fiscal year 1986 for the Railroad Accounting Principles Board (The Board) established under the Staggers Rail Act of 1980 (P.L. 96-448).

S263-18

Background and Needs

RAIL SAFETY

The authority of DOT to implement the rail safety laws originated in the Department of Transportation Act of 1967, which transferred all authority for rail safety from the Interstate Commerce Commission (ICC) to DOT. The statutes over which DOT acquired jurisdiction included the Safety Appliance Acts (45 U.S.C. 1 et seq.), the Locomation Act (45 U.S.C. 22 et seq.), and the Signal Inspection Act (49 U.S.C. 26 et seq.), each of which regulates a separate class of equipment. DOT was also granted to implement the Accidents Reports Act (45 U.S.C. 38 et seq. and the Hours of Service Act (45 U.S.C. 61 et seq.).

The first major statutory revision in the area of rail safety occurred in 1970 with the passage of the Federal Railroad Safety Act (45 U.S.C. 421 et seq.). This legislation was intended to consolidate and expand rail safety regulation, which, because the other statutes had applied to specific pieces of equipment, had been piecemeal and not responsive to many of the apparent causes of rail accidents. This act provided the DOT with the authority to issue additional regulations as appropriate, and with specific enforcement mechanisms, including inspection, the issuance of emergency orders, injunctive relief, and penalty assessment.

As a supplement to the Federal enforcement authority, a State program was established under the Safety Act of 1970, whereby DOT would certify State inspection programs and cover up to 50 percent of inspector salaries and related expenses. Also, State were granted the authority under certain circumstances to seek injunctive relief or impose penalties against carriers for safety violations where DOT does not take appropriate action.

In previous Congresses, the Committee reviewed FRA's implementation of the Safety Act of 1970, particularly in view of the many criticisms which had been directed at the program over the years. In particular, the Committee was concerned about studies which indicated FRA's lack of safety goals, resulting in an ineffective enforcement program. Concerns were raised that inspections were unstructured and that regulation did not appropriately establish performance standards. Also, questions were raised about the administration of the State inspection program.

In response to these concerns, the Committee and Congress approved the federal Railroad Safety Authorization Act of 1980, intended to strengthen the rail safety effort. In particular, DOT was directed to submit to Congress a systems safety plan, which establish goals and the appropriate allocation of resources. The legislation also strengthened FRA's emergency order authority; broadened the scope of State inspection and enforcement activities; and directed certain actions in the areas of hazardous materials and employee training.

Last Congress, the Committee reviewed DOT's systems safety plan, which set 45 safety priorities: hazardous materials transportation; passenger service; employee safety; grade-crossing casualties; and trespasser fatalities. The Committee also reviewed the State participation program, and, despite the administration proposal to

terminate Federal funding for the program, the Committee and Congress approved continued funding. Also, Congress, as part of its 1982 legislation, directed DOT to conduct a study of the safety of passenger and commuter service.

This year the Committee again reviewed DOT's rail safety program in light of its systems safety plan and the continuing progress of the overall program. In this regard, the Committee examined DOT's systems safety assessment approach to enforcement and the continuing problem of grade-crossing accidents. Also, the Committee again examined the administration's proposal to eliminate Federal funding of the State participation program, and also certain concerns raised by rail labor. The reported bill is the provide the funding necessary to continue the important safety efforts of FRA and the State participation program, and also to respond to concerns about rail-highway grade-crossing safety and labor concerns about protection from discrimination where unsafe conditions exist.

AMTRAK

Amtrak was created by legislation in 1970 as the national rail passenger system. At that time, it was envisioned that Amtrak would become a for-profit corporation. However, soon thereafter it become apparent that this would not be the case, and Congress began to search for the appropriate balance between national rail passenger needs and Federal budgetary control goals.

Concern over steadily increasing Federal subsidies to Amtrak and decreasing service efficiency in the Amtrak system culminated in the Amtrak Reorganization Act of 1979. With the intent to serve the most passengers nationally for the least amount of Federal dollars, the act restructured and streamlined Amtrak, putting in place the existing national route system. It also established certain financial and operational performance goals and criteria.

In 1981, concern was again raised about the cost efficiency of the Amtrak system. In particular, the administration proposed a significant reduction in Amtrak's Federal funds, which raised legitimate concerns about the reduced level of service that would result. The Commerce Committee and Congress rejected this proposal, remaining committed to the need to maintain a national rail passenger system. However, the Committee and Congress also recognized the need to insure that Federal subsidies are minimized.

The Amtrak legislation incorporated in the Omnibus Budget Reconciliation act of 1981 was the result of these views. That law provided the funds necessary to continue the national system and also mandated that Amtrak take all necessary actions to reduce its costs and minimize its Federal funding. Specifically, Amtrak was to attain a 50-percent revenue-to-cost ratio in fiscal 1982 and to meet other financial and operational goals to insure that the most, and best quality, service is provided at the lowest Federal cost.

The Committee is encourage by the significant progress which Amtrak has made since the passage of the 1981 legislation. Amtrak has met the 50-percent revenue-to-cost ratio. It has increased its revenues and decreased its costs, particularly in the management and labor areas. With respect to its service, Amtrak has reached an

80 percent ontime performance level, and passenger complaints have dropped significantly.

The Committee believes that the 1981 legislation is being implemented as intended, and commends Amtrak management and labor for their significant efforts to insure a more cost and service-efficient national rail passenger system. The reported legislation is intended to maintain this system and to promote its continued improvement.

RAILROAD ACCOUNTING PRINCIPLES BOARD

The Board was established in the Staggers Rail Act of 1980, legislation intended to streamline the economic regulation of the rail industry. As part of this regulatory reform effort, Congress reconginzed the need to ensure that the rail industry could more accurately recover its costs and that the shipping community would be charged reasonable rates for rail service. With these goals in mind, Congress approved the creation of the Board to develop principles of rail cost accounting.

Specifically, the Board was established as a independent Board with a life of 3 years, to be chaired by the Comptoller General of the General Accounting Office and comprised of representatives of the accounting and economics professions; the rail industry; the shipping community; and the ICC. It was to develop principles for rail costing to promote more accuracy in costing and costing more tailored to specific movements. These principles could then be applied to current rail costing practices and methods formulated by the ICC, and specifically used by the ICC in its regulatory proceedings on rate reasonableness. However, while the Board was authorized in the Staggers Act, no funds were ever appropriated.

The Committee continues to believe in the importance of a rail costing system which ensures a more accurate reflection of costs to the benefit of both shippers and carriers. In this vein, the Committee believes that the reauthorization of the Board is necessary.

Legislative History

On March 9, 1984, the Surface Transportation Subcommittee held a hearing to consider appropriate funding levels for fiscal years 1985 and 1986 to cover the FRA's railroad safety activities, including its support for the grants-in-aid program pursuant to which participating States enforce Federal railroad safety laws. The subcommittee as considered a series of amendments to the Federal railroad safety laws proposed by railroad labor. During the hearing, the subcommittee received testimony from FRA, railroad labor, the rail industry, and State representatives.

On April 5, 1984, Senator Danforth introduced S. 2537 on behalf of himself and Senators Packwood and Kassebaum. This bill reauthorizes funding for FRA and the grants-in-aid program. In addition, it incorporates most of the provisions of S. 1117, and bill reauthorizing funding for Amtrak and making other changes. The Committee ordered S. 1117 favorably reported on April 21, 1983. However, the bill was never taken up by the Senate. S. 2537 also reauthorizes funding for the Railroad Accounting Principles Board. During Staggers Act oversight hearings in July 1983, the Surface

Transportation Subcommittee was urged to consider legislation to reauthorize funding for the Board.

On April 10, 1984, the Committee met in open executive session to consider S. 2537. The Committee by voice vote unanimously adopted two amendments. The first amendment was one offered by Senator Danforth dealing with signal systems at rail-highway crossings. The second amendment was one offered by Senator Exon dealing with remedies in cases of employee harassment. The Committee by voice vote unanimously ordered the bill, as amended, to be favorably reported with technical amendments.

Summary of Major Provisions

TITLE I—RAILROAD SAFETY

Authorization of Funding for FRA

The Committe strongly supports FRA's railroad safety program and its efforts to make additional improvements in railroad safety. Accordingly, the bill approved by the Committee authorizes appropriations for FRA of $26,700,000 for fiscal year 1985 and $28,400,000 for fiscal year 1986. The 1985 authorization is the same as that requested by the administration, and the 1986 authorization provides for a continuation of the program at the same level, taking into account inflation. The funding under these authorizations is to be used to support FRA's regulatory and enforcement activities. Separate funding for FRA's conduct of safety-related research and development is provided pursuant to DOT's continuing appropriations.

In the course of approving funding for FRA, the Committee examined closely the effectiveness of FRA's safety program. Overall, we believe the program is working well. Evidence of this can be seen in the railroad industry's statistics on train accidents, fatalities, and injuries. Since 1979, there have been remarkable improvements in all of these areas in terms of reduced incidents.

Further, FRA has undertaken to improve the regulatory aspect of its safety program by completing outstanding rulemakings and setting priorities for new ones. Since January 1, 1984, it has completed action on seven of eight major regulatory matters, including rulemaking on the retrofitting of DOT-Specification 105, tank cars with headshields and thermal insulation. This rulemaking is one that the Committee previously recommended be resolved.

FRA also expects to complete a rulemaking this spring on alcohol and drug use by railroad employees. This is an area that the Committee has been following closely for some time. Further, recent accidents allegedly involving alcohol and drug use have brought into focus the need for Federal regulations. Accordingly, the Committee urges FRA to complete this rulemaking, and to do so in time for the hearing the Committee has scheduled on this subject in early June.

One other area that may involve future FRA regulatory action is rail-highway crossing safety. During the Committee's rail safety hearing, we were advised that approximately 54 percent of all railroad fatalities are the result of rail-highway crossing accidents. In 1983, 574 individuals died in such accidents. While these statistics

apparently reflect a reduction in such fatalities from previous years, witnesses still agreed that more could and should be done. In view of this, the Committee agreed to an amendment offered during the markup by Senator Danforth, which directs FRA to perform an inquiry into the safety issues related to maintenance, inspection, and testing of signal systems at rail-highway crossings. The amendment also directs FRA to report to Congress on the findings of the inquiry and the need to issue rules in this area.

In reviewing FRA's safety program, the Committee also examined the agency's enforcement efforts. During the hearing, John Riley, Administrator of FRA, testified that the agency intended to accelerate its use of systemwide safety assessments, because such assessments resulted in increased railroad compliance with the safety laws. A systemwide assessment is one in which a FRA task force performs a top-to-bottom evaluation of all aspects of safety on a railroad and works with management to develop solutions to the problems uncovered. Two years ago, the Committee indicated that it supported such assessments because they resulted in railroads taking action to correct serious safety problems. The Committee continues to support the use of safety assessments. At the same time, the Committee believes that the success of the assessments depends largely on FRA's follow-up to ensure that safety violations are corrected. Mr. Riley testified that FRA was revising its assessment procedures to ensure that its follow-ups are more thorough and more timely than before. He also said that FRA planned to bring labor and management more fully into the process. The Committee strongly encourages FRA to take these actions.

State Participation Program

The Committee continues to support the State participation program, pursuant to which those States that adopt FRA railroad safety regulations are authorized to help enforce them. Accordingly, the bill authorizes appropriations for the program of $3,100,000 for fiscal year 1985 and $3,300,000 for fiscal year 1986. The funding under these authorizations is to be used to help pay the salaries and expenses of the State inspectors.

The State participation program was established to strengthen the Federal enforcement effort. The Committee believes that the program is meeting this objective, and that it has helped improve rail safety. A number of witnesses testified to this effect during the hearing, including Mr. Riley on behalf of FRA.

While Mr. Riley testified that the program was worthwile, he said that Federal funding for the program should be ended. His position was that most States would be ended. His position was that most States would remain in the program even without Federal funding, and therefore, that it made little sense to continue the funding. However, State witnesses submitted to the Committee the results of a survey they had conducted which indicated that a number of States would either drop out of the program or reduce the number of their safety inspectors. The Committee is concerned that were this to happen, this would adversely affect railroad safety. Further, too much time and effort have been invested in the State participation program to let this happen. Under the circum-

stances, the Committee believes funding for this program should be continued.

Other Statutory Changes.

The bill approved by the Committee makes other changes in the Federal railroad safety laws. The most significant is an amendment offered during the markup by Senator Exon. The amendment allows railroad employees to pursue claims of employer harassment in court and to collect punitive damages in such cases. The current statute allows employees to pursue claims only under the Railway Labor Act. Further, the statue provides only for awards of backpay and reinstatement.

During the Committee's hearing, representatives of rail labor testified that the current law has not been effective in terms of prohibiting employer harassment. The testimony indicated that one reason is that it simply takes too long to resolve these cases under the Railway Labor Act procedures. A second reason is that railroads frequently do not fire employees, but instead harass them on the job. Thus, reinstatement and backpay do not help these employees. Senator Exon's amendment meets these concerns.

During the hearing, rail labor also recommended that the Committee cconsider other amendments to the Federal railroad safety laws. These included amendments to:

1. Authorize an employee or the imployee's union to bring suit to require FRA to enforce any violation of the railroad safety laws;
2. Provide that only members of the Carmen's Union can perform brake tests;
3. Prohibit railroads from using certain hooks to open the coupling device that connects railroad cars together; and
4. Prohibit railroads from providing any employee sleeping quarters within or near railyards.

For a variety of reasons, the Committee did not include any of these amendments in the bill. The amendment dealing with suits against FRA is one that the Committee believes would undermine FRA's ability to exercise prosecutorial discretion and would bankrupt its limited resources. Further, the record indicates that FRA has been enforcing the laws in a reasonable manner, and that under the circumstances this additional authority to bring suit is not necessary. With respect to the other amendments, the Committee believes they involve matters that are more appropriate to collective bargaining than legislation. Also, the Committee was not convinced that the amendments would necessarily improve overall safety.

TITLE II—AMTRAK

Authorization of Funding for Amtrak

The bill approved by the Committee authorizes appropriations for fiscal year 1984 of $716,400,000 and for fiscal year 1985 of $720 million. These authorization levels will permit Amtrak to operate all of the routes it operates now, as will as meet its capital and labor protection requirements. At the same time, the Committee

believes that they will require Amtrak to continue to minimize its costs and to maximize its revenues.

The fiscal year 1984 authorization is identical to the fiscal year 1984 appropriations for Amtrak that Congress approved last year. The fiscal year 1985 authorization takes into account the recommendations forwarded to the Committee by both the administration and by Amtrak. The administration recommended that Amtrak be funded at $680 million and Amtrak that it be funded at $724 million. The difference between the numbers is the result of the administration's assumption that certain capital funds previously set aside by Amtrak could be carried over and applied against Amtrak's regular capital needs. However, the Committee does not believe that most of these funds can be carried forward and reprogrammed without further congressional action. The Rail Safety and Service Improvement Act of 1982 earmarked Amtrak funds for the rehabilitation of trackage between Spuyten Duyvil and Penn Station, New York. The 1982 Jobs Bill required Amtrak to use funds for certain types of labor-intensive capital improvements. While the Committee generally opposes Congress' earmarking of funds for particular Amtrak projects and service, it nevertheless believes it cannot ignore these previous Congressional commitments. Thus the fiscal year 1985 authorization assumes that $40 million in earmarked funds will not be available to cover other expenses.

Debt Retirement

The reported bill does not include a provision dealing with the debt that Amtrak owed to the Federal Government for many years. That is because Amtrak defaulted on the debt last October when Congress failed to pass S. 1117, which would have relieved Amtrak of the obligation to pay the debt. Since then, DOT, as the guarantor of the debt, has assumed the obligation for its payment. It is the Committee's understanding that we are not required to take any further action on this matter.

Commuter service

The reported bill amends section 403(a) of the Rail Passenger Service Act regarding Amtrak's operation of six commuter trains through Illinois, Indiana, Michigan, New Jersey, New York, Pennsylvania, and West Virginia. Under the present section, Amtrak is required to operate these trains if they meet the current criterion for short-distance trains of 80 passenger miles per train mile [pm/tm]. The Committee recommends a change in this requirement to provide the opportunity for a greater contribution by the affected localities to the operation of these trains.

Last year the administration submitted a proposal to the Committee which would have mandated that the localities cover the total costs of operating these commuter trains. This year the administration submitted a modified proposal that would phase in over a 7-year period the transfer of these costs. Amtrak, while not directly commenting at last year's Committee hearings on this idea, suggested the importance of creating incentives for the affected localities to negotiate alternative arrangements for operating this service.

The Committee is concerned that Amtrak as an intercity passenger system, not be required to cover all the costs of operating this commuter service. However, the Committee also recognizes the importance of these trains to the commuters served. Accordingly, the reported bill provides for the continued operation of these trains if they meet an avoidable loss per passenger mile of 9 cents—the performance standard for short-distance trains under the reported bill. If this criterion is not met, Amtrak can cease operating the train unless the affected locality agrees to an arrangement insuring that this criterion is met. This amendment represents a fair compromise between the need to minimize the losses covered by Federal funds and the need to retain this service.

Performance criteria

The reported bill would amend subsections (c) and (d) of section 404 of the Rail Passenger Service Act to eliminate the statutory criterion on pm/tm. With this amendment, each route in Amtrak's basic system would continue to be required to meet the statutory criterion on short-term avoidable loss per passenger mile. The Committee recommends this change because it believes that loss per passenger mile is the most useful measure of train performance.

Under the current law, each Amtrak route is required to meet both the miles per train mile and short-term avoidable loss criteria. If a route is projected not to meet these criteria. Amtrak must discontinue, modify or ajdust the service over the route so that the criteria will be met.

Three years ago, the Committee recommended as part of the Amtrak Improvement Act of 1981 that both criteria be eliminated. At that time, the Committee thought that the criteria were "arbitrary and failed to take into account matters which normally would be considered by management." (S. Rept. No. 97-96.) As a followup to that 1981 proposal, the Committee asked Amtrak to comment for last year's hearing record on whether the criteria should be repealed.

In his response, Mr. Graham Claytor, President of Amtrak, recommended that the criterion on avoidable loss per passenger be retained and the criterion on passenger mile per train be eliminated. Specifically, he said:

> The 404(d) criteria have served a valuable purpose by setting a standard of cost effectiveness which Amtrak routes must meet. I would not wish to eliminate such standard altogether. I do, however, have considerable doubt as to the utility of the passenger mile/train mile criterion. This is a volume standard not a cost-effectiveness standard, and tells us very little about the efficiency of the train. It would be easy to meet the pm/tm criterion on any train anywhere simply by lowering fares sufficiently. A far more appropriate criterion for the cost-effectiveness of a train is loss per passenger mile. I would retain this criterion and might indeed tighten it.

This year, both the administration and Amtrak recommended that the pm/cm criterion be eliminated while the avoidable-loss-per-passenger-mile criterion be retained. The Committee believes this latter criterion is clearly the more useful measure, because it requires Amtrak to take into account both revenues and ridership

on any one route. Further, it supplements the systemwide performance standard applicable to Amtrak, which measures the system's ratio of revenues to costs.

Freedom of Information Act

The reported bill clarifies the application of the Freedom of Information Act (FOIA) to Amtrak's activities. Under section 306(g) of the Rail Passenger Service Act, Amtrak is fully subject to FOIA. The Committee recommends an amendment, insuring that Amtrak continues to be covered within the spirit of FOIA but without suffering unintended competitive harm.

The Freedom of Information Act provides for the access to information gathered by governmental agencies and entities. There are various exceptions to the information accessible, including one exempting information "obtained from a person" (5 U.S.C. 552(b)(4), which has been judicially interpreted to mean from a source outside the agency. This exemption is intended to prevent entities from using FOIA to gain an unfair advantage over competitors. The Committee recommends a modest amendment to the Rail Passenger Service Act to insure that this exemption applies to similar corporate information which Amtrak generates internally—the type of documentation which is to be protected from FOIA requests.

This amendment is not meant to make a special exception for Amtrak under FOIA but instead to conform FOIA as applied to other governmental entities to Amtrak's unique position. Unlike a governmental agency, Amtrak is a corporation which competes in the marketplace. Thus, unlike an agency it generates sensitive information to which its competitors should not have access—an exemption already recognized under the act and logically extended to this information. Furthermore, the proposal makes clear that Amtrak can only protect its trade-secret and commercial or financial information if it proves, as must other entities subject to the act, that such information is either privileged or confidential; that is, that disclosure would cause Amtrak substantial competitive harm.

The proposal is consistent with the overall purpose of FOIA and with the committee's intent that Amtrak be able to operate and compete as other businesses. The committee will continue to closely monitor the use of FOIA as it relates to Amtrak to insure that the act is not abused and that Amtrak does not suffer unintended competitive harm.

TITLE III–RAILROAD ACCOUNTING PRINCIPLES BOARD

Authorization of Funding for the Board

The Committee believes that the goals Congress had in mind when it approved the creation of the Board are still valid. Accordingly, the bill approved by the Committee authorizes appropriations for the Board of $1 million per year for fiscal years 1984, 1985, and 1986. This funding will permit the Board to develop railroad accounting principles, as well as review the accounting principles and costing system being used by the ICC.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 15, 1984.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation United States Senate, 508 Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2537, a bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2537.

2. Bill title: A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, April 10, 1984.

Bill purpose: The bill authorizes the appropriation of $29.8 million in fiscal year 1985 and $31.7 million for fiscal year 1986 for rail safety programs, and $716.4 million for fiscal year 1984 and $720 million in fiscal year 1985 for the National Railroad Passenger Corporation (Amtrak). Annual funding of $1 million for fiscal years 1984 through 1986 is also authorized for the Railroad Accounting Principles Board.

The level of funding authorized by the bill for rail safety programs is slightly higher than the 1984 appropriation of $28.9 million, and $3.1 million higher than the President's request for 1985. (The President requested no funding for grants to states for the railroad safety program, while this bill specifically authorizes $3.1 million for that purpose.) The Congress has already appropriated $716.4 million for Amtrak's operations and capital expenditures for 1984; the authorization for 1985 is 6 percent higher than the President's request of $680 million. The Supplemental Appropriations Act of 1984 (Public Law 98-181) provided $50,000 for 1984 for the Railroad Accounting Principles Board, contingent upon enactment of an authorization of appropriations.

Title II of the bill contains several provisions related to Amtrak's operations. One of these gives Amtrak more flexibility in negotiating agreements with states for the operation of commuter trains, by allowing Amtrak to discontinue commuter trains which do not

meet the criterion on short-term avoidable loss. In 1985, Amtrak is projecting that all commuter trains will meet the criterion. A second criterion currently specified in the Rail Passenger Service Act for judging route performance, passenger miles per train mile, would be eliminated altogether by the bill. Several reporting requirements also specified in the Rail Passenger Service Act are amended or repealed by S. 2537, including the requirement for monthly and semiannual reports, which is replaced by a mandated annual report containing route-by-route data and other information. The bill also requires the Secretary of Transportation to conduct an informal safety inquiry on issues related to maintenance, inspection, and testing of signal systems at rail-highway grade crossings, and report to the Congress within 90 days after enactment of the bill on the need for regulations and standards in this area.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988	1989
Authorization level	717.4	750.8	32.7			
Less: Existing authorization	716.4					
Net additional authorization	1	750.8	32.7			
Estimated outlays	0	651.9	80.3	52.3		

The costs of this bill fall within budget function 400.

Basis of estimate: This estimate assumes that all funds authorized by the bill will be appropriated. Outlay estimates are based on historical spending rates.

6. Estimated cost to State and local governments: This bill authorizes from the railroad safety appropriation, $3.1 million for fiscal year 1985 and $3.3 million for fiscal year 1986 for grants to states for the railroad safety program. This program assists states with certified safety programs in paying for salaries and other expenses of state safety inspections. Grants may be used to cover up to 50 percent of the total cost of the activities. Federal funding for this program in 1984 is estimated to be approximately $4.4 million.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 24, 1983, CBO prepared a revised cost estimate for S. 1117, as ordered reported by the Senate Committee on Commerce, Science and Transportation, April 21, 1983. That bill authorized the appropriation of $750 million for fiscal year 1984 and $800 million for fiscal year 1985 for Amtrak.

On September 19, 1983, CBO prepared a cost estimate for H.R. 3648, as ordered reported by the House Committee on Energy and Commerce, September 14, 1983. That bill authorized the appropriation of $730 million for fiscal year 1984 for Amtrak, and $1 million for the Railroad Accounting Principles Board, as well as other authorizations not included in the present bill.

On February 3, 1984, CBO prepared a cost estimate for H.R. 4439, as ordered reported by the House Committee on Energy and Commerce. That bill extended the authorization for the Railroad

Accounting Principles Board through 1987 and authorized $1 million per year in fiscal years 1984 through 1986.

9. Estimate prepared by: Kathleen Kelly.

10. Estimate approved by:

James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

1. Number of Persons Covered—Neither title I nor title II will have any effect on the number of individuals or businesses subject to additional regulation. Title III will have some effect in the sense that it provides for the development of accounting principles by the Railroad Accounting Principles Board, which are to be adopted by rail carriers subject to the jurisdiction of the ICC. These accounting principles would replace existing ICC accounting principles that the rail carriers now use. The Committee believes that overall the additional regulation is minimal, and that the value of the Board's principles to shippers and rail carriers outweigh what effect there is.

2. Economic Impact.—Neither title I nor title II will have any economic impact on individuals or business subject to regulation. Title III will result in some additional costs for rail carriers due to the requirement that they adopt the accounting principles developed by the Railroad Accounting Principles Board. However, such costs are not expected to be significant.

3. Privacy.—Neither title I nor title II will have any effect on the personal privacy of individuals. Title II will provide greater privacy to Amtrak by amending the Rail Passenger Service Act to exempt from Freedom of Information Act requests information generated by Amtrak that is a trade secret or of a commercial or financial nature.

4. Paperwork—Title I will not result in any additional paperwork. Title II will reduce paperwork for Amtrak and the Secretary of Transportation by eliminating some reports and consolidating others. Similarly, title II reduces paperwork for the General Accounting Office (GAO) by eliminating the annual requirement that it perform a performance audit of Amtrak; the bill would make such audits discretionary. Title III will require additonal paperwork for rail carriers when they adopt the accounting principles developed by the Railroad Accounting Principles Board. However, such additional paperwork will be a one-time occurrence, and therefore not significant.

Section-by-Section Analysis

TITLE I—RAILROAD SAFETY

Section 101—Subpoenas and Orders

This section amends section 208 of the Federal Railroad Safety Act for 1970 (Safety Act) to clarify FRA's authority to seek enforcement of a subpoena or other order issued under the Safety Act through a proceeding in an appropriate Federal district court.

Section 102—Annual Report

This section amends section 211 of the Safety Act to require FRA to submit its annual report to the Congress on April 15, rather than July 1 to ensure its timeliness for use by Congress. It also deletes the reference, no longer necessary, to a special report that was submitted to Congress back in 1976.

Section 103—Employee Protection

This section amends section 212 of the Safety Act to provide that an employee who is discriminated against for actions taken in response to unsafe conditions can bring an action in Federal district court, in addition to the public law board forum already provided in section 212, and can recover punitive damages, as well as the existing remedies under section 212 of reinstatement and back pay if released from employment.

Section 104—Authorization for Appropriations

This section amends section 214 of the Safety Act to authorize appropriations of $26,691,000 and $28,426,000 for fiscal years 1985 and 1986, respectively, to support FRA's safety functions. It also authorizes $3,100,000 and $3,300,000 for fiscal years 1985 and 1986, respectively, to support the State participation program.

Section 105—Rail-Highway Grade Crossing Safety Study

This section directs the Secretary of Transportation, within 90 days of the date of enactment of this legislation, to conduct a safety inquiry into safety devices at rail-highway grade crossings, which continue to present safety concerns. Within 90 days of completion of this study, the DOT is to report to Congress on its findings and specifically whether any further rules or regulations are necessary in this area.

TITLE II—RAIL PASSENGER SERVICE

Section 201—Directors and Officers

This section amends section 303(a) of the Rail Passenger Service Act (RPSA) to provide that the two members of the Amtrak Board of Directors who are selected by the preferred stockholder (the Federal Government) shall serve until their successors are appointed. The law not provides that other members of Amtrak's Board shall serve until their successors are appointed. The amendment makes the law consistent.

Section 202—Preferred Stock

This section amends section 304(c) of the RPSA to permit amtrak to restate its books and tax returns for years prior to fiscal year 1982 as if preferred stock had actually been issued in the years when it received certain capital grant funds. This amendment is necessary to remove an uncertainty as to the reporting of depreciation of the assets acquired with such capital grants.

Section 203—Performance Reports

This section repeals section 305(l) of the RPSA as no longer necessary. Also, Section 305(m) and 308(a) are amended to provide for an annual report by Amtrak to Congress by February 15 of each year that includes certain route-by-route data and other information. The amendment's new report replaces monthly and semiannual reports now required to be submitted by Amtrak.

Section 204—Diversity Jurisdiction

This section amends section 306(m) of the RPSA to specify that Amtrak shall be considered a citizen only of the District of Columbia for purposes of determining original jurisdiction in Federal district courts. Amtrak has continued to encounter arguments that it can still be considered a citizen of other jurisdictions, and that therefore diversity jurisdiction in Federal courts does not exists. This amendment clarifies the original intent of the law.

Section 205—Rail Service Performance

This section amends section 403(d) of the RPSA to provide that if a commuter train operated under this section does not meet the criterion for short-distance trains of a 9-cent short-term avoidable loss per passenger mile, Amtrak may discontinue the train, unless the State or States involved enter into an agreement which ensures that the criterion is met. Under the current law, Amtrak must operate these trains if they meet the 80 passenger mile per train mile criterion for short-distance trains currently in law, a criterion being eliminated in this section, regardless of whether they meet this loss per passenger mile criterion. The amendment is intended to give Amtrak the flexibility it says it needs to negotiate individual compensation agreements with the States and communities served by these trains to cover any losses associated with this service.

Subsections (c), (d), and (e) of this section amend section 404 (c) and (d) of the RPSA to eliminate the criterion of passenger mile per train mile. Under the amendment, Amtrak will continue to be required to review each of its routes to determine whether it meets the criterion on short-term avoidable loss per passenger mile.

This section further amends section 404(c) of the RPSA to provide that any amendments proposed by Amtrak to its Route and Service Criteria shall not be effective until 120 days after they have been submitted to the Congress. This amendment is made necessary by the fact that the current law contains a one-house legislative veto of the type recently declared unconstitutional by the United States Supreme Court.

Section 206—Freedom of Information Act

This section amends section 306(g) of the RSPA to provide that for purposes of the Freedom of Information Act (FOIA), trade secrets and commercial or financial information prepared by Amtrak shall be considered as having been "obtained from a person." Section 306(g) subjects Amtrak to FOIA even though it is not a Federal agency. FOIA provides certain exceptions, including one for trade secrets and financial information "obtained from a person."

However, as a business entity, Amtrak generates its own trade secrets and financial information not covered by the exception—information which could be valuable to its competitors. The amendment is intended to permit Amtrak to protect such information from FOIA requests under that exception.

Section 207—Authorization for Appropriations

This section amends section 601 of the RPSA to authorize funding for Amtrak of $716.4 million in fiscal year 1984 and $720 million in fiscal year 19 5.

Section 208—Interim Emergency Federal Financial Assistance

This section repeals title VII of the RPSA, which authorized interim emergency Federal financial assistance to private railroads to assist them in carrying out the operating contracts with Amtrak authorized by the Act. This financial assistance was never required or used.

Section 209—Miscellaneous Provisions

This section repeals a number of provisions of the RPSA that require unnecessary reports or contain outdated requirements.

Subsection (a) amends section 306(a)(3) of the Rail Passenger Service Act to strike an obsolete reference to the Interstate Commerce Act.

Subsection (b) repeals section 306(k) of the Rail Passenger Service Act, which deals with a study the ICC was required to do back in 1977.

Subsection (c) repeals section 402(g) of the Rail Passenger Service Act, which requires Amtrak to enter into an industrywide agreement with respect to the operation of charter and special trains. Neither Amtrak nor the operating railroads have been able to come up with such an agreement. In the meantime, Amtrak has been contracting for charter and special trains on an ad hoc basis, which has proved statisfactory. The repeal of this provision means that Amtrak will continue to handle such trains on an ad hoc basis.

Subsection (d) amends section 805(2)(A) of the Rail Passenger Service Act to eliminate the requirement that the GAO perform an annual performance audit of Amtrak. With this amendment, such audits will be discretionary.

Subsection (e) repeals section 806 of the Rail Passenger Service Act, which deals with a report the Secretary of Transportation was required to do back in 1973.

Subsection (f) repeals section 810 of the Rail Passenger Service Act, which deals with a study the Secretary of Transportation was required to do back in 1980.

Subsection (g) repeals section 811 of the Rail Passenger Service Act, which requires Amtrak to submit an annual report to Congress on the ratio of revenue to operating expenses on each of its routes. This report is not necessary, because the same information would be contained in the new report provided for by section 3(b) of the reported bill.

Subsection (h) repeals section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976, which requires Amtrak

and the Secretary of Transportation to submit annual reports on the progress of the Northeast corridor improvement project. These reports are time consuming and not necessary.

TITLE III—RAILROAD ACCOUNTING PRINCIPLES BOARD

Section 301—Amendments to Title 49, United States Code

This section amends title 49 of the United States Code to give new life to the Board and make certain amendments consistent with this extension. The Board was originally authorized in the Staggers Rail Act of 1980 for a 3-year period. It was never funded, and its authorization expired in September 1983. This section authorizes annual appropriations of $1 million per year for fiscal years 1984, 1985, and 1986 to support the Board's activities.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE FEDERAL RAILROAD SAFETY ACT OF 1970

SECTION 208 OF THAT ACT

SEC. 208. GENERAL POWERS.

(a) In carrying out his functions under this title the Secretary is authorized to perform such acts including, but not limited to, conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, prescribing record-keeping and reporting requirements, carrying out and contracting for research, development, testing, evaluation, and training (particularly with respect to those aspects of railroad safety which he finds to be in need of prompt attention), and delegating to any public bodies or qualified persons, functions respecting examination, inspecting, and testing of railroad facilities, equipment, rolling stock, operations, or persons, as he deems necessary to carry out the provisions of this title. *In case of contumacy or refusal to obey a subpena, order (other than an order directing compliance with this Act), or directive of the Secretary issued under the first sentence of this subsection by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with any such subpena, order, or directive. Failure to obey such court order may be punished by the court as a contempt of court.* The Secretary is further authorized to issue orders directing compliance with this Act or with any railroad safety rule, regulation, order, or standard issued under this Act; the district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.

(b)–(d) * * *

SECTION 211 OF THAT ACT

SEC. 211. ANNUAL REPORT.

(a) The Secretary shall prepare and submit [to the President for transmittal] to Congress on or before [July 1] *April 15* of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include, but not be restricted to—

(1) a thorough statistical compilation of the accidents and casualties by cause occurring in such year;

(2)–(10) * * *

(b) * * *

[(c) The Secretary shall prepare and submit to the President and the Congress, not later than March 17, 1976, a comprehensive railroad safety report. Such report shall—

[(1) contain a description of the areas of railroad safety with respect to which Federal safety standards issued under this Act are in effect (as of June 30, 1975);

[(2) identify any area of railroad safety with respect to which Federal safety standards have been proposed but have not been issued under this Act (as of June 30, 1975);

[(3) identify any area of railroad safety with respect to which Federal safety standards have not been issued under this Act (as of June 30, 1975);

[(4) identify alternative and more cost-effective methods for inspection and enforcement of Federal safety standards, including mechanical and electronic inspection, and contain an evaluation of problems involved in implementing such alternatives, with specific attention to the need for cooperation with the railroad industry;

[(5) identify the areas of railroad safety listed in accordance with paragraphs (1) through (3) of this subsection which involve, or which may involve, State participation under section 206 of this Act;

[(6) contain a description of the railroad safety program which is in effect or planned in each State (as of June 30, 1975), including—

[(A) State program development;

[(B) State plans to participate in program areas listed in accordance with paragraph (1) of this subsection, which are not covered by a State certification or agreement;

[(C) State interest in participating in each program area listed in accordance with paragraphs (2) and (3) of this subsection, following issuance of the applicable safety standards;

[(D) annual projections of each State agency's needs for personnel, equipment, and activities resonably required to carry out its State program during each fiscal year from 1976 through 1980 together with estimates of the annual costs thereof separately stated as to projections under subparagraphs (B) and (C) of this paragraph;

[(E) the sources from which the State expects to draw the funds to finance such programs; and

[(F) the amount of State funds and of Federal financial assistance needed during each such fiscal year, by category;

[(7) contain a detailed analysis of (A) the number of safety inspectors needed (by industry and Government respectively) to maintain an adequate and reasonable railroad safety program and record; (B) the minimum training and other qualifications needed for each such inspector; (C) the present and projected availability of such personnel in comparison to the need therefor; (D) the salary levels of such personnel in relation to salary levels for comparable positions in industry, State governments, and the Federal Government;

[(8) evaluate alternative methods of allotting Federal funds among the States applying for Federal financial assistance, including recommendations, if needed, for a formula for such apportionment;

[(9) contain a discussion of other problems affecting cooperation among the States that relate to effective participation of State agencies in the nationwide railroad safety program;

[(10) contain a description of the regulations and handling criteria established by the Secretary under the Hazardous Materials Transportation Act specifically applicable to the transportation of radioactive materials by railroad (as of June 30, 1975), together with annual projections of the amounts of radioactive materials reasonably expected to be transported by railroad during each fiscal year from 1976 through 1980 and an evaluation of the need for additional regulations and handling criteria applicable to the transportation of radioactive materials by railroad during each such fiscal year; and

[(11) contain recommendation for any additional Federal and State legislation needed to further realization of the objectives of this Act.

Such report shall be prepared by the Secretary, directly or indirectly, after research, examination, study, and consultation with the national associations representing railroad employee unions, railroad management, cooperating State agencies, the national organization of State commissions, universities, and other persons having special expertise or experience with respect to railroad safety. Such report shall include, in an appendix, a statement of the views of the national associations representing railroad employee unions, of the carriers, and of the national organization of State commissions with respect to the content of such report in its final form.]

ECTION 212 OF THAT ACT

SEC. 212. PROTECTI[illegible] AND RIGHTS OF EMPLOYEES.

(a)–(b) * * *

(c)(1) Any dispute, grievance, or claim arising under this section shall be subject to resolution in accordance with the procedures set forth in section 3 of the Railway Labor Act (45 U.S.C. 153), *or the employee may bring an action for a violation of this section in the United States district court for the district where the alleged act or*

acts occurred or where the defendant has its principal executive office.

(2) In the case of any violation of subsection (a) or (b) of this section, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act shall, where appropriate, award backpay *and punitive damages* to the aggrieved employee and order such employee reinstated to his position.

(d)–(e) * * *

SECTION 214 OF THAT ACT

SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

(a)–(b) * * *

(c)–(1) * * *

(2) To carry out the provisions of section 207(d) of this title relating to State safety programs, there are authorized to be appropriated not to exceed $2,700,000 for the fiscal year ending September 30, 1983, [and] not to exceed $2,900,000 for the fiscal year ending September 30, 1984, *not to exceed $3,100,000 for the fiscal year ending September 30, 1985, and not to exceed $3,300,000 for the fiscal year ending September 30, 1986";*.

(3) * * *

(d) There are authorized to be appropriated to carry out the provisions of this Act, except section 206(d) of this title and except for conducting safety research and development activities under this Act, not to exceed $26,691,000 for the fiscal year ending September 30, 1985, and not to exceed $28,426,000 for the fiscal year ending September 30, 1986.

[d] *(e)* Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.

THE RAIL PASSENGER SERVICE ACT

SECTION 303 OF THAT ACT

SEc. 303. DIRECTORS AND OFFICERS.

(a)(1) The Corporation shall have a board of directors consisting of nine individuals who are citizens of the United States, as follows:

(A)–(D) * * *

(E) Two members selected annually by the preferred stockholders of the Corporation, which members shall be selected as soon as practicable after the first issuance of preferred stock by the Corporation *and shall serve until their successors have been appointed.*

(2)–(8) * * *

SECTION 304 OF THAT ACT

SEC. 304. FINANCING OF THE CORPORATION.

(a)–(b) * * *

(c)(1)–(2) * * *

(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date

of receipt by the Corporation of the funds for which such stock is issued.

(d)–(e) * * *

SECTION 305 OF THAT ACT

SEC. 305. GENERAL POWERS OF THE CORPORATION.

(a)–(k) * * *

[*(l)* The Corporation shall establish a Performance Evaluation Center within the Corporation which shall have the responsibility of providing an ongoing review of operations. The Center should evaluate both short-term and long-term operational problems and make recommendations for improvement of operations. Each six months, the Corporation shall submit a report of the Center's activities and recommendations to the appropriate authorizing committees of both Houses of Congress and to the Secretary.]

(m) For purposes of assesing the operational performance of trains, the President of the Corporation shall have the authority to direct the conductor on any Amtrak train to report to the [Center] *Corporation* any inadequacy of train operation. Adequacy of service reports required under this subsection shall be promptly transmitted to the [Center] *Corporation.* Each report shall be signed by the conductor and contain sufficient information to locate equipment or personnel failures.

(n) * * *

SECTION 306 OF THAT ACT

SEC. 306. APPLICABILITY OF THE INTERSTATE COMMERCE ACT AND OTHER LAWS.

(a)(1)–(2) * * *

(3) regulation of routes and service and [,except as otherwise provided in this Act,] the discontinuance or change of passenger train service operations; and

(4) * * *

(b)–(f) * * *

(g) The Corporation shall be subject to the provisions of section 552 of title 5, United States Code *except that trade secrets and commercial or financial information prepared by the Corporation shall be considered as having been "obtained from a person" under section 552(b)(4) of title 5, United States Code.*

(h)–(j) * * *

[(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

[(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

[(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

[(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

[(4) The extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and pasenger convenience;

[(5) methods of formulating joint fares and divisions thereof;

[(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

[(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.]

(l) * * *

(m) The Corporation shall be deemed to be qualified to do business in each State in which it performs any activity authorized under this Act. In connection with the performance of such activities, the Corporation shall accept service of process addressed by certified mail to the secretary of the Corporation at its principal office and place of business in Washington, District of Columbia. The Corporation shall be deemed to be a citizen *only* of the District of Columbia for the purpose of determining the original jurisdiction of the district courts of the United States in civil actions to which the Corporation is party.

(n) * * *

SECTION 308 OF THAT ACT

SEC. 308. REPORTS TO THE CONGRESS.

[(a)(1) Not later than the 45th day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

[(A) Total itemized revenues and expenses.

[(B) Revenues and expenses attributable to each railroad.

[(2) Not later than the fifteenth day following the end of each calendar month, the Corporation shall transmit to the Congress and release to the public the following information applicable to its operations for such calendar month:

[(A) The average number of passengers per day on board each train operated.

[(B) The on-time performance at the final destination of each train operated, by route and by railroad.]

(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceeding fiscal year, data on ridership, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems.

(b)–(c) * * *

SECTION 402 OF THAT ACT

SEC. 402. FACILITY AND SERVICE AGREEMENTS.

(a)–(f) * * *

[(g) The Corporation shall enter into a contract with rail carriers on an industrywide basis to establish rights for the operation of special or charter trains between specific routes and points anywhere in the Nation upon provision of reasonable notice (of not less than seven days) to the carriers involved in the operation of any special or charter trains, except that with respect to rail lines on which rail passenger service has not been operated for the preceding 180 days, reasonable notice under this sentence shall be notice of not less than 21 days. If the Corporation and the rail carriers are unable to reach agreement by January 1, 1981, the Commission shall, upon application by the Corporation, order rail services to be provided under this subsection and shall, consistent with just and reasonable compensation principles, determine within 180 days after such date the proper amount of compensation for the provision of such services and the proper method of prior notification of the schedule and routing of a special or charter train by the Corporation.]

(h) * * *

SECTION 403 OF THAT ACT

SEC. 403. NEW SERVICE.

(a)–(c) * * *

(d) Beginning October 1, 1981, the Corporation shall continue to operate rail passenger service operated under this subsection prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the [criteria set forth in section 404(d)(2)(B)] *criterion set forth in section 404(d)(2)* of this Act, after taking into account projected fair increases and any State or local contributions to such service. *Beginning October 1, 1983, if such service is not projected to meet such criterion, the Corporation may discontinue such service, unless the Corporation and a State (or States) enter into an agreement which ensures that the criterion will be met.* Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the day prior to the effective date of the Amtrak Improvement Act of 1981.

SECTION 404 OF THAT ACT

SEC. 404. SERVICE CHANGES.

(a)–(b) * * *

(c)(1)–(2) * * *

(3)(A) * * *

(B) Beginning on the effective date of the Amtrak Improvement Act of 1981, if the Corporation determined that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period [60] *120* calendar days of continuous session of the Congress after the date of its submission[, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not

approve such amendment.] *For purposes of this subparagraph, continuity of session of the Congress is broken only by an adjournment sine die and the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of such 120-day period.*

(4)(A) * * *

[(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet the criteria set forth in the appropriate paragraph, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criteria will be met.]

(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operations of rail passenger service over such route so that the criterion will be met.

(C)–(F) * * *

(5) * * *

(d)(1) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any long distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end points or principal intermediate points, in order to maintain a national intercity rail passenger system, [if—] *if*

[(A)] the short term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 7 cents per passenger mile[; and].

[(B) the passenger mile per train mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 150.] Short term avoidable loss per passenger mile calculated by the Corporation for purposes of this subsection shall be based upon consistently defined factors for all types of routes, and such short term avoidable loss [and passenger mile per train mile] shall be calculated in the same manner for all routes. The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period, except that the Corporation may also utilize historical data (such as seasonal fluctuations in ridership) as long as such data is adjusted to reflect the most recent available statistics. [The Corporation shall, no later than 30 days after the effective date of this subsection, submit a report to the Interstate and Foreign Commerce Committee of the House of Representatives and the Committee on Commerce, Science, and Transportation

of the Senate on the methodology, equations, factors used, assumptions, and results in connection with the calculation of short term avoidable loss per passenger mile and passenger mile per train mile under this subsection.]

(2) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any short-distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978 with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, [if—] *if*

[(A)] the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than 9 cents per passenger mile[; and].

[(B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.]

SECTION 601 OF THAT ACT

SEC. 601 AUTHORIZATION FOR APPROPRIATIONS.

(a) * * *

(b)(1) * * *

(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

(A) not to exceed $735,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act; [and]

(B) not to exceed $788,000,000 for the fiscal year ending September 30, 1983, of which not more than $26,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act. [.];

(C) not to exceed $716,400,000 for the fiscal year ending September 30, 1984; and

(D) not to exceed $720,000,000 for the fiscal year ending September 30, 1985.

TITLE VII OF THAT ACT

[TITLE VII—INTERIM EMERGENCY FEDERAL FINANCIAL ASSISTANCE

[SEC. 701. INTERIM AUTHORITY TO PROVIDE EMERGENCY FINANCIAL ASSISTANCE FOR RAILROADS OPERATING PASSENGER SERVICE.

[(a) For the purpose of permitting a railroad to enter into or carry out a contract entered into under this Act, the Secretary is authorized, on such terms and conditions as he may prescribe, to (1) make loans to such railroad, or (2) guarantee any lender against loss of principal or interest on any loan to such railroad.

[(b) Before making a loan or a guarantee under this section, the Secretary must find, in writing, that—

[(1) the loan or guarantee is necessary to carry out the provisions of this Act;

[(2) the proceeds of any loan made or guaranteed under this Act will be used solely to carry out contracts entered into under this Act;

[(3) the loan or guarantee is not otherwise available on reasonable terms and conditions; and

[(4) there is reasonable assurance that the business affairs of the railroad will be conducted in a prudent manner.

[(c)(1) In any case in which there is a liquidation of the assets of any railroad which is the recipient of a loan made or guaranteed under this Act, the United States shall have the first right to redeem that portion of such assets consisting of those rights-of-way, tracks, and other facilities designated by the Secretary to be necessary for the purpose of providing intercity rail passenger service, including services employing innovative technology, within the basic system. In the case of a railroad in reorganization (as defined in section 102(12) of the Regional Rail Reorganization Act of 1973) which has an agreement with the Corporation to provide intercity rail passenger service on the date of enactment of this sentence, the sale by such railroad of any right-of-way or track over which the Corporation is required to provide intercity rail passenger service on such date of enactment (as an experimental route designated by the Secretary before such date of enactment) shall be deemed to be a liquidation of the assets of such railroad under the first sentence of this paragraph, and the Secretary shall acquire such right, title, and interest in such right-of-way or track, and restore it to such condition, as may be necessary to permit the Corporation to provide intercity rail passenger service over the designated route.

[(2) It is the intent of the Congress that, in the case of a loan guarantee under this Act, the United States shall stand in the same position with respect to other creditors as in the case of a direct loan by the United States giving the United States priority over secured and unsecured creditors.

[(d) Interest on loans made under this section shall be at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans adjusted to the nearest one-eighth of one per centum.

[(e) The maturity date on any loan made or guaranteed under this section, including renewals and extensions thereof, shall not be later than five years from the date of issuance.

[(f) The aggregate amount of loans and loan guarantees made under this section shall not exceed $200,000,000.

[SEC. 702. AUTHORIZATION FOR APPROPRIATIONS.

[There are hereby authorized to be appropriated such amounts not to exceed $200,000,000 as may be necessary to carry out the purposes of this title. Any sums appropriated shall be available until expended.]

SECTION 805 OF THAT ACT

SEC. 805. RECORDS AND AUDIT OF THE CORPORATION AND CERTAIN RAILROADS.

(1) * * *

(2)(A) The Comptroller General of the United States [shall] *may* conduct [annually a] performance [audit] *audits* of the activities and transactions of the Corporation in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such [audit] *audits* shall be conducted at such place or places as the Comptroller General may deem appropriate. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Corporation pertaining to its financial and other transactions and necessary to facilitate the [audit] *audits* and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation.

(B) To the extent the Comptroller General deems necessary in connection with audits as he may make of the financial transactions of the Corporation pursuant to paragraph (A) of this subsection, his representatives shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any railroad with which the Corporation has entered into a contract for the performance of intercity rail passenger service, pertaining to such railroad's financial transactions and necessary to facilitate the [audit] *audits,* and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of such railroad shall remain in the possession and custody of the railroad.

(C) * * *

SECTION 806 OF THAT ACT

[SEC. 806. REPORT BY SECRETARY OF TRANSPORTATION.

[(a) The Secretary shall, on or before March 15, 1973, transmit to the Congress a comprehensive report on the effectiveness of this Act in achieving and promoting intercity rail passenger service and on the effectiveness of the Corporation in implementing the purposes of this Act. Such report shall include an evaluation by the Secretary of the intercity rail passenger service operations assumed by the Corporation including, but not limited to, adequacy and effectiveness of services, on-time performance, reservations and ticketing, scheduling, equipment, fare structures, routes, and immediate and long-term financial needs.

[(b) In addition to the general evaluation and assessment required under subsection (a) of this section, the report by the Secretary shall include—

[(1) recommendations for the orderly assumption by the Corporation of the operation and control of all aspects of its inter-

city rail passenger service, including the performance by the Corporation of all Full-time functions solely related to the intercity rail passenger service provided by it under this Act;

[(2) an assessment of whether the board of directors of the Corporation adequately and fairly represents the members of the public who utilize intercity rail passenger services and, if necessary, recommendations for appropriate changes in the composition of such board of directors;

[(3) estimates of potential revenues for the Corporation from the transportation of mail and express on intercity passenger trains;

[(4) a detailed analysis of the on-time performance of intercity rail passenger service operations assumed by the Corporation, together with such recommendations as the Secretary may deem advisable to eliminate delays in such intercity rail passenger service operations caused by freight train operations;

[(5) recommendations with respect to the establishment of the optimum intercity rail passenger service system as soon as possible after July 1, 1973, taking into account economic feasibility, requirements as to public convenience and necessity, and the ability of the Corporation to provide adequate service over the total system, which optimum system shall include recommended routes and discontinuances; and

[(6) recommendations with respect to the improvement of tracks and roadbeds on routes over which the Corporation operates intercity passenger trains.

[(c) Such report shall contain such additional recommendations as the Secretary may deem advisable to assist the Corporation in carrying out the purposes of this Act, including recommendations for legislative enactments or administrative actions, which would enable the Corporation, after July 1, 1973, to discontinue more rapidly and efficiently those routes which do not meet the criteria recommended by the Secretary for the establishment of the optimum intercity rail passenger service system.

[(d) In carrying out the provisions of this section, the Secretary may use available services and facilities of other departments, agencies, and instrumentalities of the Federal Government with their consent and on a reimbursable basis.

[(e) Departments, agencies, and instrumentalities of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the provisions of this section.]

SECTION 810 OF THAT ACT

[SEC. 810. STATE TAXATION STUDY.

[The Secretary shall conduct a study of the payment of taxes by the Corporation to State and local governments, including the payment of property taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other user fees, and any other taxes paid by the Corporation to such governments, and shall make recommendations to the Congress no later than January 1, 1980, concerning the advisability of relieving the Corporation, either in whole or in part, of

its obligation to make such payments. In conducting such study, the Secretary shall consider—

[(1) the requirement that the corporation be operated and managed as a for-profit corporation;

[(2) the certainty that the Corporation will need substantial Federal subsidies for the foreseeable future;

[(3) the demand by States and localities for continued and increased federally funded rail passenger service;

[(4) the benefit to States and localities of rail passenger service directly funded by the Federal Goverment; and

[(5) the importance to the Nation of maintaining an efficient and reliable rail transportation system.]

SECTION 811 OF THAT ACT

[SEC. 811. REVENUE REPORT

[Within 60 days of the end of each fiscal year beginning with fiscal year 1981, the Corporation shall report to the Congress on the ratio of revenue to operating expenses on all routes in the basic system. As part of such report, the Corporation shall specifically identify those train routes which did not achieve a 50 percent revenue-to-expense ratio, and the Corporation shall include statements explaining the reasons which prevented such ratios from being achieved.]

THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

SECTION 703 OF THAT ACT

REQUIRED GOALS

SEC. 703. The Northeast Corridor improvement project shall be implemented by the Secretary in order to achieve the following goals to the extent compatible with the amount of authorizations specified in section 704 of this title:

(1) INTERCITY RAIL PASSENGER SERVICES.—(A)–(C)

[(D) The submission by the Secretary and the National Railroad Passenger Corporation to the Congress of annual reports on progress achieved and work in progress and planned (including the need for further improvements) with respect to the completion of this program, including an up-to-date accounting of intercity passenger ridership, revenues from such ridership, expenses, and on-time dependability of intercity passenger trains in the Northeast Corridor.]

(E) * * *

(2)–(7) * * *

TITLE 49, UNITED STATES CODE

SECTION 11161 OF THAT TITLE

§ 11161. Railroad Accounting Principles Board

(a)–(b) * * *

(c)(1) * * *

(2) Individuals appointed by the Board under this subsection may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, *except that no such individual may be paid at a rate which exceeds the rate prescribed for level V of the Executive Schedule.*

(d)–(e) * * *

(f) the Board shall cease to exist three years after the [effective date of the Staggers Rail Act of 1980] *members of the Board are appointed under this section.*

SECTION 11162 OF THAT TITLE

§ 11162. Cost accounting principles

(a) Within two years after the [effective date of the Staggers Rail Act of 1980] *members of the Board are appointed under section 11161 of this title,* the Railroad Accounting Principles Board shall establish, for rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods, including the variable costs associated with particular movements of goods or such other costs as the Board believes most accurately represent the economic costs of such movements. Such principles shall govern the determination of all railroad costs for specific regulatory proceedings under this title.

(b)–(c) * * *

SECTION 11167 OF THAT TITLE

§ 11167. Report

The Railroad Accounting Principles Board shall, within 2 years after the [effective date of the Staggers Rail Act of 1980] *members of the Board are appointed under section 11161 of this title,* submit to the Congress a report setting forth any recommendations of the Board for appropriate legislative or administrative action in order to integrate the cost accounting principles and the cost accounting system certification process under this subchapter into existing rail carrier rate regulation under this title, including determinations under section 10709 of this title.

SECTION 11168 OF THAT TITLE

§ 11168. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this subchapter not to exceed $1,000,000 for the fiscal year ending September 30, [1981] *1984,* not to exceed $1,000,000 for the fiscal year ending September 30, [1982] *1985,* and not to exceed $1,000,000 for the fiscal year ending September 30, [1983] *1986.*

○